DECISION MEMORANDUM

TO:       COMMISSIONER KJELLANDER
           COMMISSIONER SMITH
           COMMISSIONER HANSEN
           COMMISSION SECRETARY
           COMMISSION STAFF
           LEGAL

FROM:    SCOTT WOODBURY

DATE:     DECEMBER 28, 2006

SUBJECT:  CASE NO. IPC-E-06-35 (Idaho Power)
           FIRM ENERGY SALES AGREEMENT – BENNETT CREEK
           WINDFARM LLC

On December 26, 2006, Idaho Power Company (Idaho Power; Company) filed an
Application with the Idaho Public Utilities Commission (Commission) requesting approval of a
20-year Firm Energy Sales Agreement between Idaho Power and Bennett Creek Windfarm LLC
(Bennett Creek) dated December 20, 2006 (Agreement).

Background

On August 4, 2005, the Idaho Public Utilities Commission (Commission) in Case
No. IPC-E-05-22, Order No. 29839, reduced the eligibility cap for avoided cost published rates
for non-firm wind projects from 10 aMW to 100 kW, required individual negotiation for larger
wind qualifying facilities (QFs), and established criteria for assessing QF contract entitlement.
29872 the date for grandfathering eligibility was changed from July 1, 2004, the Notice of
Petition date, to August 4, 2005, the date of Interlocutory Order No. 29839.

Agreement

The Bennett Creek facility will be located within Sections 22, 23, 26 (less southeast
quarter) and 27, Township 4 S, Range 8 E, Boise Meridian, Elmore County, Idaho. Bennett
Creek warrants the facility will be a qualified small power production facility (QF) under the
applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA). The
facility will consist of 12 Vestas wind turbines with individual nameplate ratings of 1.65 MW for
each unit, for a total facility nameplate generator rating of 19.8 MW. The Agreement contains
the non-levelized, published avoided cost rates set forth in Order No. 29391. Under normal
and/or average operating conditions, Bennett Creek will not generate more than 10 aMW on a
monthly basis. Energy delivered in excess of this monthly amount is Inadvertent Energy. Idaho
Power will accept Inadvertent Energy that does not exceed the Maximum Capacity Amount (20
MW) but will not purchase or pay for Inadvertent Energy. Agreement ¶ 7.6.

Based on Idaho Power Company’s review of the information provided by the
developer and in light of the procedure the Commission accepted in Cassia Wind Order No.
29954, Case No. IPC-E-05-35, Idaho Power has determined that it would be reasonable to
grandfather the Bennett Creek facility based on satisfaction of the following criteria identified by
the Commission in Order No. 29839, Case No. IPC-E-05-22

Primary criteria:

Prior to August 5, 2005, the developer had tendered a signed Firm Energy
Sales Agreement to Idaho Power for the facility. This satisfies one of the two
primary criteria for grandfathering.

Secondary criteria:

As of August 5, 2005, the facility did not have a signed contract for turbines.
Idaho Power has reviewed the information provided by the developer and
determined that this developer believed that obtaining financing was the
highest priority on the critical path to project development and directed its
resources to that goal rather than turbine acquisition. As a result, prior to
August 4, 2005, the developer had entered into binding commitments to
obtain financing. The Company has also confirmed that as of August 4,
2005, the facility had made substantial progress on the other secondary
criteria, except for acquisition of turbines. As in the case of Cassia Wind, the
developer has now obtained a firm commitment for turbines for the facility
and filed the necessary applications for interconnection to satisfy the second
primary criteria.

Idaho Power notes that there are three provisions the Commission should be aware of
in its consideration of the Agreement:

1. In the negotiations of this project, Idaho Power and Bennett Creek agreed
that an on-line date of December 2007 is crucial to demonstrate that the
project was a viable project in August of 2005. This Agreement contains
delay damage provisions that require the project pay Idaho Power
damages if the project comes on-line after December 31 2007. The delay
damages will accrue for a period of up to 90 days.
2. The Agreement contains the methodology for computing shortfall energy payments the Commission approved in the Firm Energy Sales Agreement between Idaho Power and Fossil Gulch Wind Park, LLC (Case No. IPC-E-04-19, Order No. 29630) and recently approved for Magic Wind Park in Order No. 30206 issued in Case No. IPC-E-06-26. Bennett Creek has voluntarily selected the Fossil Gulch Method. Use of the Fossil Gulch methodology is a negotiated term of the Agreement and is mutually acceptable to Idaho Power and Bennett Creek.

3. The Agreement reflects the changes to Idaho Power’s Schedule 72 [Uniform Interconnection Agreement] approved in Order No. 30179 issued on November 17, 2006 in Case No. IPC-E-06-18.

Bennett Creek has selected March 31, 2007 as the Scheduled First Energy Date and December 31, 2007 as the Scheduled Operation Date.

Section 24 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the Agreement’s terms and conditions and declared that all payments Idaho Power makes to Bennett Creek for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

COMMISSION DECISION

Staff recommends that the Application in Case No. IPC-E-06-35 be processed pursuant to Modified Procedure, i.e., by written submission rather than by hearing. Reference IDAPA 31.01.01.201-204. Does the Commission agree that Modified Procedure is appropriate?

Scott Woodbury

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